

Arthur B. Goodkind
Koteen & Naftalin, LLP
1150 Connecticut Avenue N.W.
Washington, D.C. 20036
(Counsel for McGraw-Hill Broadcasting)

Howard F. Jaeckel
CBS, Inc.
51 West 52nd Avenue
New York, New York 10019-6119
(Counsel for Group W/CBS Television Stations Partners)

Thomas Ragonetti, Esq.
Otten, Johnson, Robinson and Neff
950 17th St. #1600
Denver, Co. 80202-2827
(Attorney for Lake Cedar Group)

David Frolio
1133 21st St., NW, Suite 900
Washington, DC 20036
(Attorney for BellSouth)

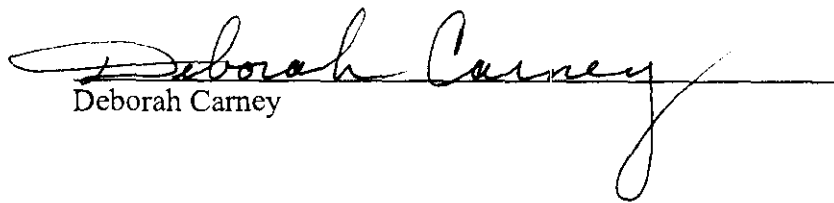
And the following additional interested parties:

Jefferson County Commissioners
Michelle Lawrence
Pat Holloway
Richard Sheehan
Jefferson County Building
100 Jefferson County Pkwy.
Golden, CO 80401-3550

Ms Kaaren Hardy and Ms. Georgianna Contiguglia
State Historic Preservation Officer
Colorado State Historical Society
Colorado History Museum
1300 Broadway,
Denver, CO 80203-2137

Mr. Gordon Yellowman
Cheyenne and Arapaho NHPA Representative
Cheyenne and Arapaho Tribes
P.O. Box 38
Concho, Ok. 73022

Ms. Jane Crisler
Advisory Council on Historic Preservation
12136 Bayaud Ave.,
Lakewood, CO 80228


Deborah Carney



Canyon Area Residents for the Environment, Inc.

Golden, Colorado 80401

C.A.R.E. is a coalition of homeowners' associations & neighborhoods in the Mount Vernon Canyon.

Since 1987 it has served as an umbrella organization representing the central mountain communities of Jefferson County - from Clear Creek to Bear Creek, the Hogback to Rainbow Hillis.

August 4, 1999

Re: CARE Invitation to Broadcasters

Dear Network Presidents, Lake Cedar Group Members, Attorneys and National Affiliates:

The Jefferson County Commissioners requested that CARE work with the broadcasters on a solution to the siting of HDTV broadcast antennas. This suggestion was made following the Commissioner's rejection of the Lake Cedar Group Rezoning Proposal for a supertower and transmission building on Lookout Mountain for both HTDV and FM. Numerous CARE Community members have expertise and contacts that may help solve problems with alternative sites suggested or anticipated by Lake Cedar Group. CARE offers its help in coping with issues that may be raised by the FAA, the Department of Commerce, the FCC and others regarding these alternative sites as well as sites not even previously discussed.

Lookout Mountain, with numerous residents in the main beam of radiation and even more residents exposed to major interference problems is a highly problematic site. These and many other issues raised at the Jefferson County Commissioners Hearings and in CARE filings with the FCC point to the need for a careful evaluation of alternatives. Please join us in reaching a solution that will promptly provide HDTV for Denver without harming people.

Sincerely,

Deborah Carney, on behalf of CARE
21789 Cabrini Boulevard Golden, Colorado 80401
303-526-9666
e-Mail: deb@carneylaw.net

Copy to:
Robert Iger
ABC President
77 W. 66th
New York,
New York 10023
Via fax: 212-456-1002

Mel Karmazin
CBS President



LAKE CEDAR GROUP LLC

13974 Travois Trail _____
Parker, Colorado 80138 _____
Voice & FAX 303-841-6624 _____
Internet: jamestvser@aol.com _____

J.H. (Jim) MacDermott
Vice-President & General Manager

August 12, 1999

Ms. Deborah Carney
Canyon Area Residents for the Environment
21789 Cabrini Boulevard
Golden, CO 80401

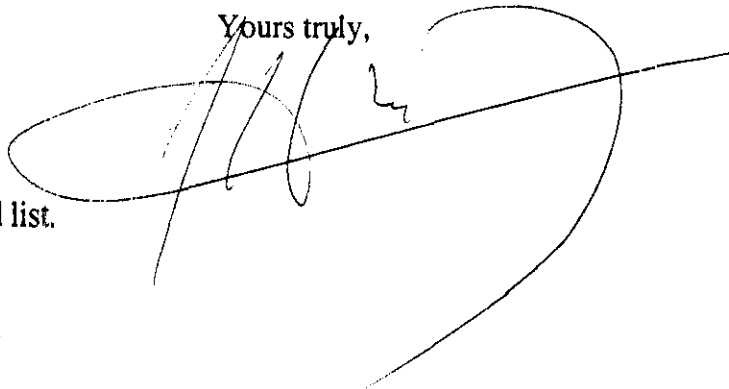
Dear Ms. Carney,

This will respond to your August 4, 1999 letter addressed to Lake Cedar Group Members, among others, of which I have received a copy.

As you know the Jefferson County Commissioners urged that Lake Cedar Group (LCG) and CARE seek ways to achieve a "win-win" solution to improve the antenna farm on Lookout Mountain and the concurrent implementation of digital television as mandated by the Federal government. The members of LCG own approximately 80 acres of property on Lookout which is, and will continually be, legally used for purposes of television and radio broadcast transmission. We thoroughly analyzed and evaluated all other potential sites many years ago when we began the consolidation process, and repeated that again prior to and during the application hearings, and determined that Lookout was the only feasible site. No other existing or approved site, or any other location, was or is capable of handling the consolidated facility or of delivering satisfactory signal coverage to the citizens of the metro area.

As we have stated in the past, we stand ready to meet with you and the Commissioners in order to bring about that "win-win" goal on Lookout. Please provide me with some alternative dates and times that you would be available for such a meeting so that we can schedule it at a mutually convenient time.

Yours truly,



Courtesy copies per attached list.

**PLAINTIFF'S
EXHIBIT**

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Canyon Area Residents for the Environment, Inc.

Golden, Colorado 80401

C.A.R.E., 25958 Genesee Trail Road, Unit K 203, Golden, CO 80401-5742

C.A.R.E. Web Page: <http://www.c-a-r-e.org>

C.A.R.E. is a coalition of homeowners' associations & neighborhoods in the Mount Vernon Canyon.

Since 1987 it has served as an umbrella organization representing the central mountain communities of Jefferson County - from Clear Creek to Bear Creek, the Hogback to Rainbow Hills.

August 18, 1999

Jim MacDermott
Vice-President and General Manager
Lake Cedar Group LLC
13970 Travois Trail
Parker, Colorado 80138

Re: Invitation

Dear Mr. MacDermott,

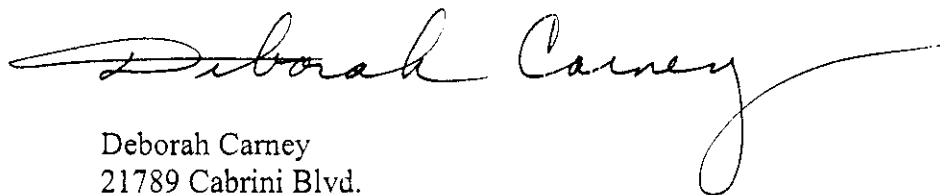
CARE is in receipt of your letter of August 12, 1999. Our representatives are available and welcome the opportunity to meet with LCG members and representatives, as suggested by the Board of County Commissioners and our 8/4/99 letter. The County Commissioners did not limit the issues to be discussed at our meeting(s) to Lookout Mountain. Indeed, the Commissioners have indicated that there has not been thorough and comprehensive evaluation and consideration of alternate sites. The Board of County Commissioners has suggested, and CARE agrees, that all siting alternatives should be reviewed.

Perhaps the perceived problems with some of those alternatives can be resolved through mutual, cooperative effort. Perhaps there are alternative sites that have not yet been examined. As a starting point, it would be helpful for Lake Cedar Group to provide CARE with copies of any studies, reports, or other available information containing the "...[analyses and evaluation of] all other potential sites" completed by LCG "many years ago" and those that were apparently more recently conducted during the hearing process. This base data will assist CARE in understanding all of the alternatives which have been considered and understanding with specificity the identified problems with those various alternatives. It will facilitate and expedite future discussion(s) of alternatives and allow us to focus more clearly on problem solving.

If you could assemble and provide us with the above information by August 30, we would propose scheduling a meeting for September 8, 9, 10, 15, 16, or 17 at 9 a.m. Mount Vernon Country Club.

We trust that commencing this dialogue is important to LCG and its members. It is a high priority for CARE. We will look forward to hearing from you.

Sincerely,



Deborah Carney
21789 Cabrini Blvd.
Golden, Co. 80401

Copy to:

National affiliates, Counsel and Station Managers for members of Lake Cedar Group by station:

Denver Channel 4 (CBS) KCNC

Mel Karmazin
CBS President
51 W 52 nd St.
New York,
New York 10019
Via fax; 212-975-5361

Group W CBS TV Stations Partnership (KCNC)

C/o CBS, Inc.
600 New Hampshire Ave., NW
Washington, D.C. 20037

Howard F. Jaeckel

CBS, Inc.

51 West 52nd Avenue

New York, New York 10019-6119

(Counsel for Group W/CBS Television Stations Partners)

Mr. Marvin P. Rockford

Vice President and General Manager (Channel 4 CBS)

KCNC TV P.O. Box 5012TA

Denver, Co. 80217

Denver Channel 6 (PBS) KRMA Public Broadcast

Ervin Duggan

PBS President and CEO

1320 Braddock Place

Alexandria,

Va. 22314-1698

Via fax: 703-739-0775

LAKE CEDAR GROUP LLC

13974 Travois Trail _____
Parker, Colorado 80138 _____
Voice & FAX 303-841-6624 _____
Internet: jamestvser@aol.com _____

J.H. (Jim) MacDermott
Vice-President & General Manager

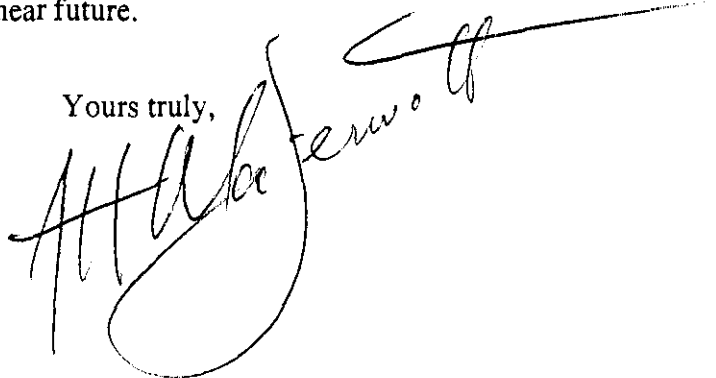
September 2, 1999

Ms. Deborah Carney
Canyon Area Residents for the Environment
21789 Cabrini Boulevard
Golden, CO 80401

Dear Ms. Carney,

As CARE does, we at Lake Cedar have many people involved in formulating our plans. We are presently evaluating various thoughts as to the most effective way to work together, and will get back to you in the near future.

Yours truly,

A large, stylized handwritten signature in black ink, likely belonging to J.H. (Jim) MacDermott, written over the "Yours truly," text.

Courtesy copies per attached list.

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Congress of the United States
Washington, DC 20510

February 24, 1999

The Honorable William E. Kennard
Federal Communications Commission
1919 M Street, N.W. Room 814
Washington, D.C. 20554

Dear Chairman Kennard:

Concerns have arisen among our constituents because of a proposal to site a new High Definition Television (HDTV) tower on Lookout Mountain in Jefferson County, Colorado. As you may be aware, several of the major television stations in the Denver market have contracted with a company to erect this HDTV tower. We have been following this issue for several months; we have attended meetings and been in contact with local community groups, county zoning officials and commissioners, and the Colorado Department of Health. We are writing to request some specific information from the Commission that will help us to better understand this issue and the role that the FCC plays in this particular case. We would appreciate answers to the following questions:

1. What role does the FCC have, if any, in the permitting process for private companies that propose to build HDTV towers on private land?

2. Currently several broadcast towers exist at the Lookout Mountain site. There are 9,000 to 11,000 residents in the immediate area (within 4 miles of the antennas), and some residents live at a higher altitude than the radio towers. Is this situation unique? Specifically, is this a comparatively large number of people within a small radius of such towers?

Also, do other antenna sites exist in the United States where people live at an equivalent elevation or above the towers? Does the FCC have knowledge of any studies conducted to determine whether special health risks are posed to those who live at an elevation above such towers?

3. If the FCC is aware that a proposed tower would exceed the RF guidelines for that site, can or will the FCC take preemptive action against the proposed tower?

4. The FCC has mandated that affiliates in the top 30 markets provide a digital signal by a date certain. Would you please confirm the ranking of the Denver market, and the date by which a digital tower for Denver networks, like the one proposed, must be operational?

5. The Lake Cedar Group, the contractor which proposes to erect the tower on Lookout

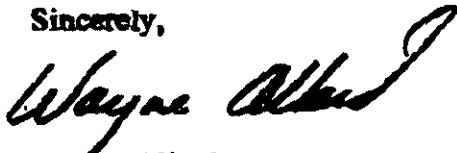
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Mountain, will go before the Jefferson County Commissioners on March 10, 1999 to request zoning approval for its project. Does the Board of Commissioners have absolute authority to deny or grant this request? Does the FCC have any authority to override the decision of the Commissioners in this particular case?

A timely response is necessary due to the upcoming Board of Commissioners meeting to review this issue. We would very much appreciate your written response by March 3. Thank you for your prompt attention to our questions.

Sincerely,



Wayne Allard
United States Senator



Tom Tancredo
Member of Congress

cc: Jefferson County Commissioners



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 3, 1999

The Honorable Wayne Allard
United States Senate
513 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Allard:

Thank you for your letter on behalf of your constituents concerning the siting of broadcast facilities on Lookout Mountain near Denver, Colorado. The following information responds to the specific questions contained in your letter.

Television stations throughout the United States are in the process of converting to new digital television (DTV) facilities. The FCC's rules provide for a staggered implementation schedule for DTV. Television stations in Denver, Colorado (the 18th largest television market according to Nielsen rankings) that are affiliated with the top four networks (ABC, CBS, Fox, and NBC) must complete construction of their DTV facilities by November 1, 1999. All remaining Denver commercial television stations must complete DTV construction by May 1, 2002, and Denver noncommercial television stations must complete DTV construction by May 1, 2003. Six television stations in Denver with separate existing towers are seeking to construct their DTV facilities on a new unified tower to be sited on Lookout Mountain by a consortium known as the Lake Cedar Group, LLP (LCG), thus reducing the total number of towers at that site.

While the FCC maintains a database on the location of communications towers, it does not maintain records on the number of persons residing within the vicinity of those towers, or the altitude of such residences. Accordingly, we cannot determine whether the proposed tower siting on Lookout Mountain is a unique situation. Similarly, while studies have been conducted to examine generally the effects of human exposure to radiofrequency radiation (RFR) produced by communications facilities, we are not aware of any studies that have been conducted specifically to examine the health risks posed to those who live at an elevation above a communications tower.

The FCC's review of the proposed DTV facilities on Lookout Mountain encompasses certain matters within its rules and the Communications Act of 1934, as amended. Each DTV application receives a technical review by FCC staff to assure that the proposed facilities will, among other things: (1) not cause objectionable interference to other DTV or analog (NTSC) facilities; (2) provide adequate signal strength to cover the city of license; (3) not create a hazard to air navigation; and (4) not involve a violation of the FCC's rules regarding human

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The Honorable Wayne Allard

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exposure to RFR. If the projected RFR from any proposed tower exceeds federal limits, the Commission will not approve the tower application until it complies with the federal limits. As for the local permitting process, the FCC traditionally does not involve itself in local land use matters. The FCC has long held that zoning questions should be left to local zoning authorities who, the FCC believes, are best situated to resolve such questions.

We have been aware of the allegations concerning RFR exposure levels at the Lookout Mountain tower site that may have been in excess of the FCC's limits. While FCC staff were reviewing applications filed by each of the six Denver television stations proposing their new DTV facilities on Lookout Mountain, Canyon Area Residents for the Environment (CARE) sent a series of filings to the FCC maintaining that measurement studies performed by members of their group indicated that certain locations on Lookout Mountain already exceeded the FCC's RFR exposure limits. On October 9, 1998, the Chief of the FCC's Office of Engineering Technology (OET) responded to CARE's filings and denied their request for a blanket prohibition on new or renewed antenna facilities on Lookout Mountain. However, OET stated that evidence submitted by CARE established that a closer look at the Lookout Mountain RFR matter was warranted.

On October 29, 1998, FCC staff conducted a measurement survey of RFR exposure levels in publicly accessible areas at the Lookout Mountain site and determined that certain locations on Lookout Mountain exceed the RFR limits. OET determined that the relatively high RFR levels measured were the result of emissions from the existing antennas of five Denver FM radio stations. At the recommendation of FCC staff, the FM stations promptly reduced their power and took other steps temporarily to eliminate the RFR problem on Lookout Mountain. The FM stations also agreed to implement a more permanent solution, pending local approval, including the erection of fencing to prohibit public access and exposure in the future. Thereafter, OET staff revisited the Lookout Mountain site and confirmed that the remedial measures taken by the FM stations had been implemented and that the Lookout Mountain site was in compliance with RFR guidelines. These facts were reported to the Jefferson County Planning and Zoning Commission in a letter dated November 25, 1998, from OET and the Mass Media Bureau, a copy of which is enclosed.

The existing TV facilities were found to be in compliance, and when Commission staff factored in the projected RFR from the proposed DTV facilities, the emission levels from all the TV towers remained within federal limits. Based upon these actions, on December 2, 1998, the FCC granted the Denver DTV applications.

I understand that, since that time, the local Jefferson County Planning and Zoning Commission has approved the construction of the LCG tower. As you indicated in your letter, the issue is scheduled to go before the Jefferson County Commissioners on March 10, 1999. The Commission has provided its input to local officials concerning the RFR matter

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The Honorable Wayne Allard

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and defers to the decision of the Jefferson County Commissioners on the remaining local land use matters.

I appreciate your concern in this matter, and will be happy to answer any further questions you might have.

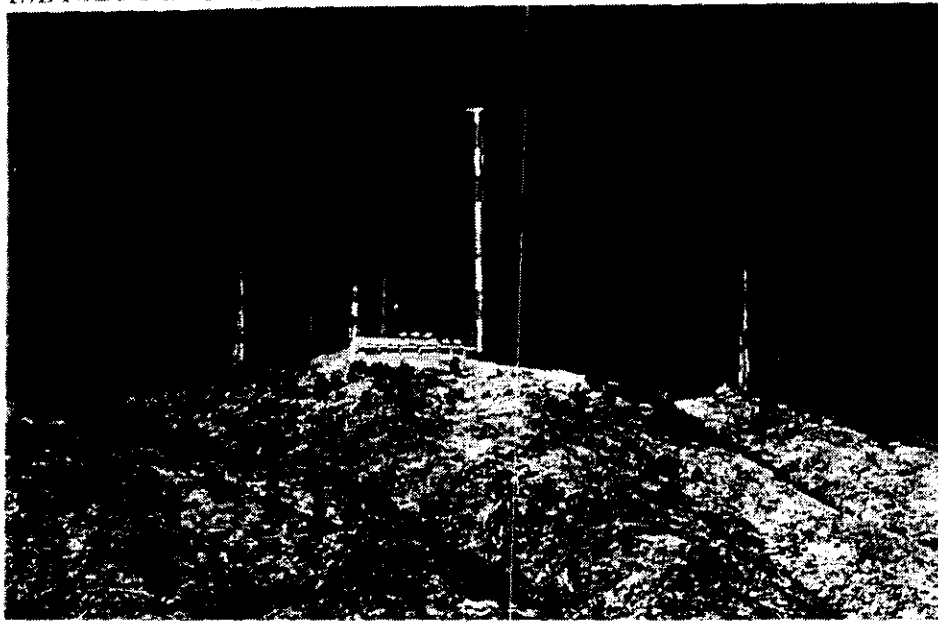
Sincerely,



William E. Kenward
Chairman

Enclosure

IMAGES REGARDING IMPACT OF SUPER TOWER



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Simulation of
Proposed
Tower and
building as
viewed from
County
Administratio
n Building

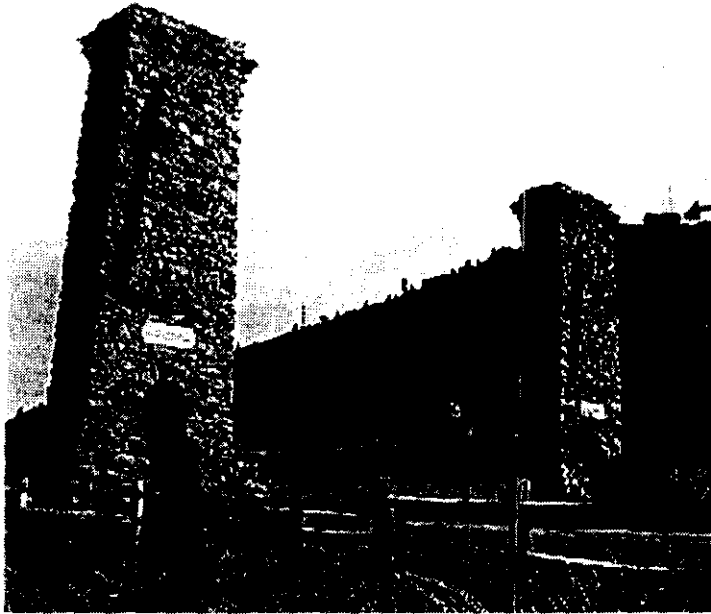
In the simulation above, the 25,000 + sq. ft. Building is shown where the 1,000 + sq. ft. current building is visible at the base of the existing tower in the photo below. The new super tower, cabling and ice bridge will be much more prevalent and visible the the current Channel 4 Tower.



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Present View across the
valley from the East Entrance
to Golden on C-58, with
proposed new building drawn in.



NEW
BUILDING

Present
Golden
Entrance to
Denver
Mountain
Parks and
Lariat Loop
Heritage
Area, with

proposed new
building drawn in.

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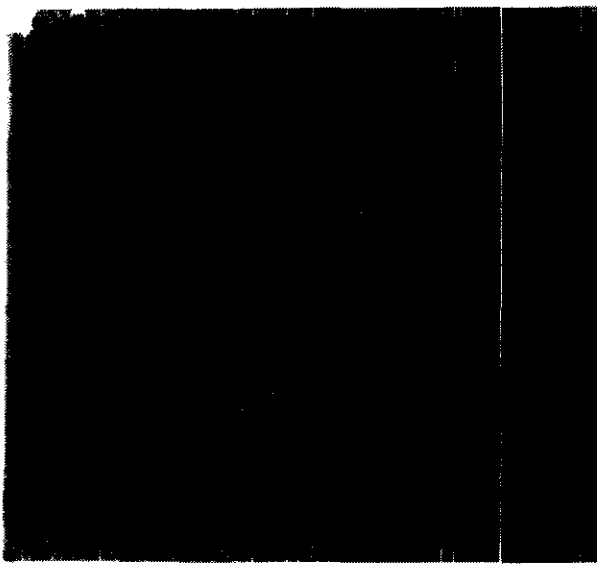
Present
views
of/from
the
Golden
12th
Street
Historic
District,
with

proposed
new
building
drawn in.

Photo from end of District to the West

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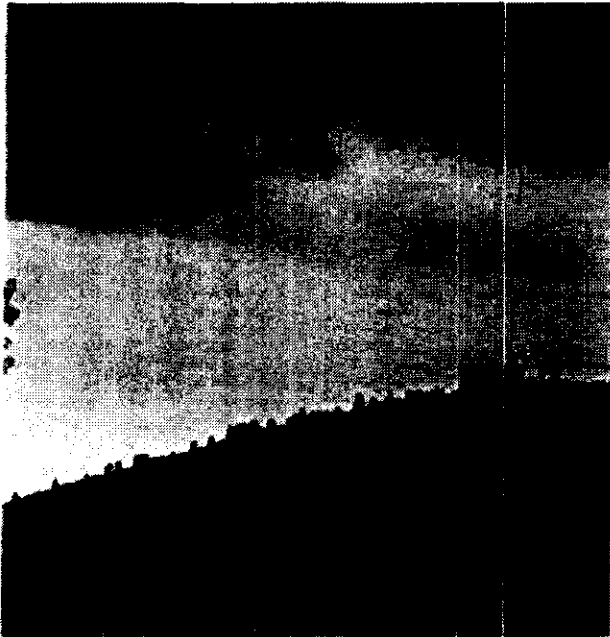


Present View from Side of
Colorado Territorial Capitol
(Loveland/Coors Buildings),
With proposed new building drawn in.

NEW BUILDING

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EXHIBIT

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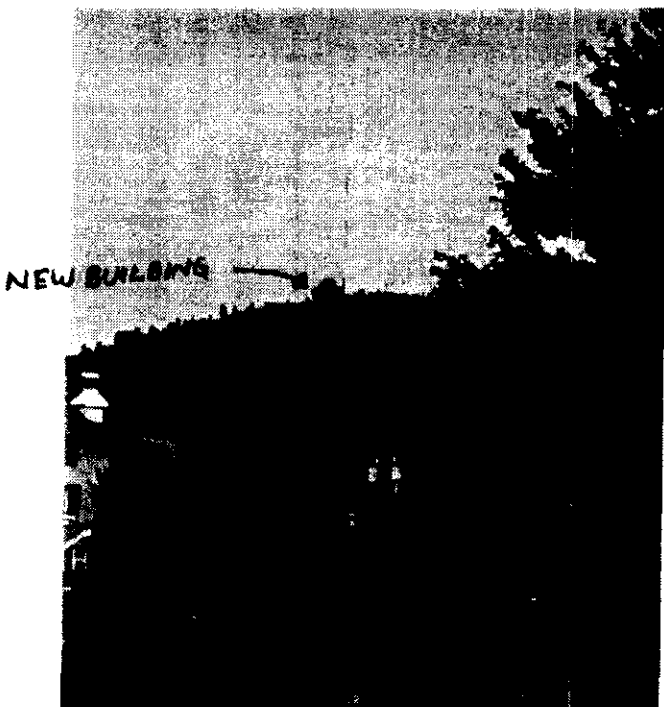
Front View from
Historic Golden High
School Building, with

proposed new building drawn in.

NEW BUILDING

PLAINTIFF'S
EXHIBIT

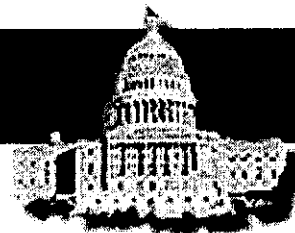
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View from Front of
Astor House to the
South in Golden (Part
of Mines Campus
visible), with proposed
new building drawn in.

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ACHP

Federal Agency Programs and Links: Federal Communications Commission

Construction of communications towers and development of communications lines can potentially have significant visual impacts on historic properties and can adversely impact archeological sites. The Federal Communications Commission (FCC) licenses and certifications for such facilities are Federal actions subject to compliance with Section 106 of the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA).

The Telecommunications Act of 1996 has increased the number of applications before FCC by encouraging growth of the telecommunications industry and competition among wireless carriers. The advent of digital television technology may also trigger a wave of new tower construction or changes to existing towers. Extension and construction of buried fiberoptic cable systems and other communications lines are also increasing.

I. Federal Preservation Officer

Ava (Holly) Berland
Office of the General Counsel
Federal Communications Commission
445 12th St. SW
Room 8A523
Washington DC 20554
Telephone: (202) 418-1732 Fax: (202) 418-7540

II. Cultural Resource Management: Policy and Interpretation

FCC regulations for compliance with NEPA are found in the *Code of Federal Regulations*, Title 47, Subchapter A, Part 1, Subpart I—Procedures Implementing the National Environmental Policy Act of 1969 (47 CFR Part 1.1301 to 1.1309). The references to historic preservation are found at 47 CFR Part 1.1307(a)(4), which identifies facilities that may affect properties on or eligible for the National Register of Historic Places as potentially requiring NEPA compliance (including preparation of an Environmental Assessment by the applicant).

FCC has guidance on NEPA and answers to frequently asked questions about NEPA.

FCC does not have regulations or guidance on compliance with Section 106 of the NHPA.

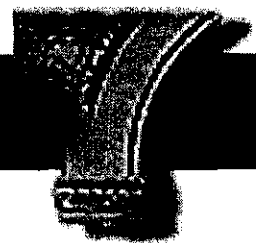
III. Section 106 Notes

Programmatic Agreements for construction of wireless telecommunications towers in Virginia and California are under development. These could, if successfully concluded,

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ACHP



Relationship of Section 106 Responsibilities to Other Laws

Federal agencies have responsibilities under a number of laws that may influence the way they carry out their Section 106 duties. Section 800.14 of the Council's regulations specifically encourages coordination of Section 106 responsibilities "with the steps taken to satisfy other historic preservation and environmental authorities...." However, compliance with one or more of the other statutes does not substitute for compliance with 36 CFR Part 800, unless the Council explicitly agrees that it does through execution of a Programmatic Agreement or approval of counterpart regulations.

Some of the other Federal laws related to the National Historic Preservation Act (NHPA) with which agencies have to comply are:

National Environmental Policy Act of 1969 (NEPA);

Archeological and Historic Preservation Act of 1974 (AHPA);

Archeological Resources Protection Act of 1979 (ARPA);

American Indian Religious Freedom Act of 1978 (AIRFA);

Native American Graves Protection and Repatriation Act of 1990 (NAGPRA);
and

Americans with Disabilities Act of 1990 (ADA).

Agency-Specific Legislation

National Environmental Policy Act (NEPA)

Under NEPA, agencies have broad responsibilities to be concerned about the impacts of their activities on the environment, including historic properties. To an extent, NEPA addresses some of the same concerns as NHPA, for instance regarding identification of irreversible effects.

Although Section 106 is a totally separate authority from NEPA—and is not satisfied simply by complying with NHPA—it is perfectly reasonable for agencies to coordinate studies done and documents prepared under Section 106 with those done under NEPA. The most important thing to bear in mind is not to confuse the requirements of NHPA with the requirements of NEPA, or to try to substitute compliance with one for compliance with the other.



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Section 106
Regulations
Users Guide

Working with Section 106



1. Regs Summary

2. Major Changes

3. Regs Text

4. Regs Flow Chart

5. Regs Flow Chart
Explanatory
Material

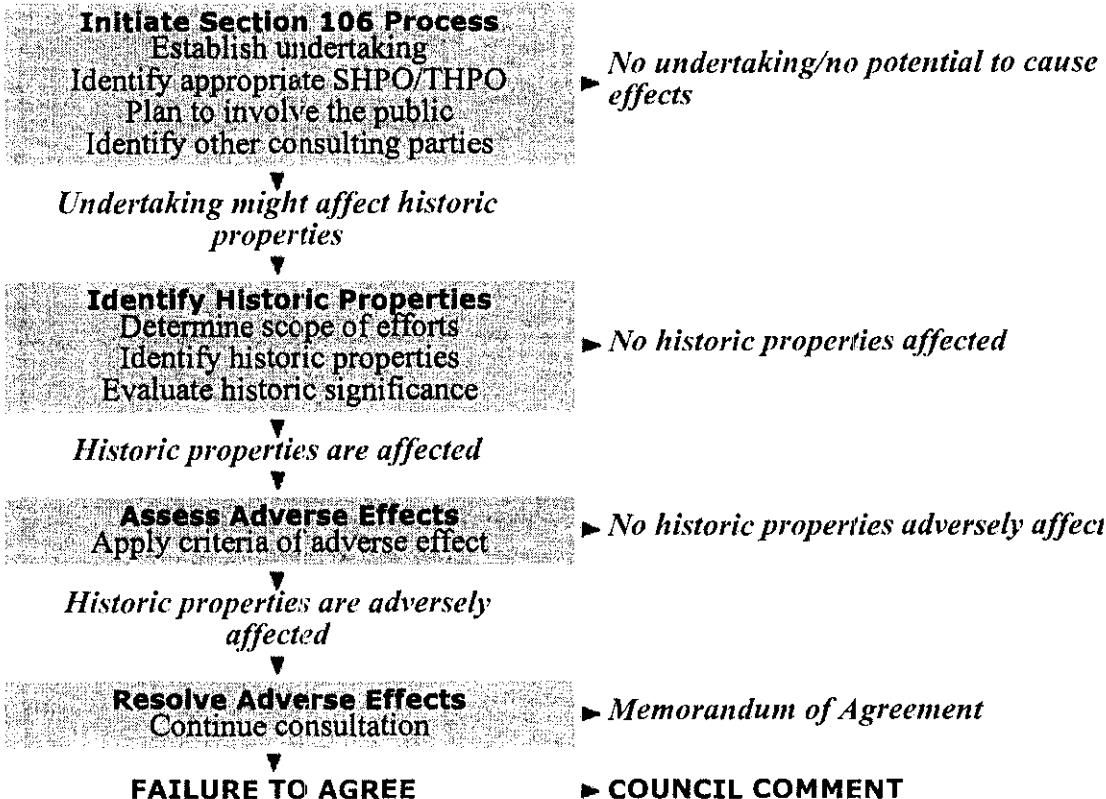
6. Transition
Questions and
Answers

7.
Section-by-Section
Questions and
Answers

Section 106 Regulations Users Guide

4. Regs Flow Chart

Click on parts of the flow chart for more information.
(Flow chart best viewed in Netscape 4.0)

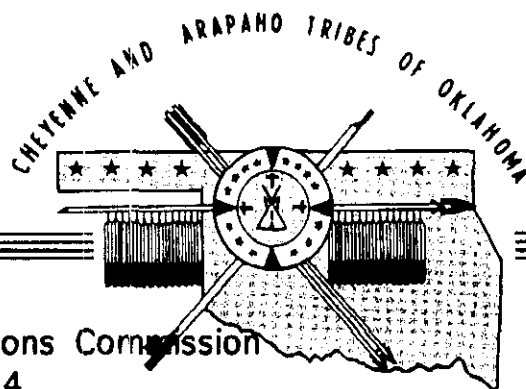


Key Elements of the Section 106 Process			
The Roles of Participants	Involving the Public	Consultation	Documentation

Click here to view all flow chart explanatory material in one long document—suitable for printing



**ADMINISTRATION
&
MANAGEMENT**



P.O. Box 38
Concho, Oklahoma 73022
(405) 262-0345

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
Canyon Area Residents for Environment)
Request for Review of Action Taken Under)
Delegated Authority on a Petition for)
And Environmental Impact Statement)

To the Commission:

**NOTICE OF FILING OF PUBLIC COMMENTS IN RESPONSE TO THE
PETITION FOR RECONSIDERATION FILED BY THE ADVISORY COUNCIL
ON HISTORIC PRESERVATION
FCC 99-267 previously known as DA 99-1435 of DA 99-1211**

I am the Cheyenne Native American Graves Protection and Repatriation Act (NAGPRA) and the National Historic Preservation Act (NHPA) Representative for the Cheyenne and Arapaho Tribes of Oklahoma a "Federally Recognized" Tribe. In addition, I am also a traditional religious leader of the Cheyenne. Both the Cheyenne and Arapaho historically lived and maintained their traditional homelands in what is now the State of Colorado. I have personally visited Lookout Mountain on August 24, 1999 and determined that there are traditional cultural properties on Lookout Mountain that have religious and cultural significance to the Cheyenne. The Lake Cedar Group proposed tower and large transmission building may affect this religious and cultural site. Neither the FCC nor Lake Cedar Group have contacted the Cheyenne and Arapaho Tribes of Oklahoma.

Gordon Yellowman, Sr., Cheyenne
NAGPRA-NHPA Representative
Cheyenne and Arapaho Tribes of Oklahoma

